

TENTATIVE RULINGS for LAW and MOTION

January 9, 2020

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted on Yolo Court's Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Nine

(530) 406-6819

TENTATIVE RULING

Case: **Harden v. Sutter Medical Group, et al.**

Case No. CV PO 18-2165

Hearing Date: **January 9, 2020** **Department Nine** **9:00 a.m.**

Defendant Adnan M. Din, M.D.'s demurrer to plaintiff John Harden's first amended complaint is **SUSTAINED IN PART**. (Code Civ. Proc., § 430.10, subd. (e) & (f).) The demurrer as to the second, third and fourth causes of action are **OVERRULED**. The demurrer as to the fifth and sixth causes of action are **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) The first amended complaint fails to state sufficient facts to state the fifth cause of action for battery and the sixth cause of action fraudulent misrepresentation. (*Cobbs v. Grant* (1972) 8 Cal.3d 229, 239-241; *Phillipson and Somon v. Gulsvig* (2007) 154 Cal.App.4th 347, 363; *Custodio v. Bauer* (1967) 251 Cal.App.2d 303, 313-314.)

The notice of motion does not provide notice of this Court's tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party, or the moving party if unrepresented by counsel, is ordered to notify the opposing party or parties immediately of the tentative ruling system.

If no hearing is requested, and no party appears at the hearing, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.

TENTATIVE RULING

Case: **Rolle v. Craighton**

Case No. CV CV 16-2033

Hearing Date: **January 9, 2020** **Department Nine** **9:00 a.m.**

Plaintiff Barbara Rolle, as trustee of the Rolle Family Trust's motion to enforce consent decree and award attorney fees and costs is **GRANTED IN PART**. (Code Civ. Proc., § 664.6.)

Plaintiff's request to order defendants to pay their portion for the fence construction, in accordance with paragraph 11 of the Consent Decree, is **GRANTED**. Plaintiff has submitted sufficient evidence showing that defendants were provided the billing directly from the fencing contractor. (Consent Decree, ¶ 11; Freestone decl., ¶¶ 4-7; Borg decl., ¶ 12.) In all other

respects, plaintiff's motion is **DENIED**. Plaintiff has not shown that defendants were obligated to pay the \$1,000.00 for the easement under the terms of the consent decree. (Consent Decree, ¶ 12.) Further, plaintiff has failed to demonstrate that Code of Civil Procedure section 664.6 authorizes the Court to adjudicate and award damages for a breach of the terms of the settlement agreement and bad faith.

Plaintiff and defendants' respective requests for attorney's fees are **DENIED**, as neither party is considered the prevailing party to the instant motion. (Consent Decree, ¶ 14.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.

TENTATIVE RULING

Case: **Salling v. St. John's Retirement Village**
Case No. CV PO 19-1693

Hearing Date: **January 9, 2020** **Department Nine** **9:00 a.m.**

Defendant St. John's Retirement Village's objections are **OVERRULED**. (*Fox v. Superior Court* (2018) 21 Cal.App.5th 529, 535, 537 n.3.)

Plaintiff's motion for preference is **GRANTED**. Plaintiff has established that he is over the age of 70, that he has a substantial interest in the litigation at bar, and that his health is such that a preference is necessary to prevent prejudicing his interest in the litigation. (Code of Civ. Proc., §§ 36, 36.5; *Fox v. Superior Court* (2018) 21 Cal.App.5th 529, 534.)

Parties are **DIRECTED TO APPEAR**, and to bring trial calendars, to select trial dates not more than 120 days from the date of the hearing, January 9, 2020. (Code Civ. Proc., § 36, subd. (f).) By the Court's calculation, 120 days from January 9, 2020 is Friday, May 8, 2020.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.